

AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Western District of TexasFiled 3/24/11United States of America)
v.)
Carlos Guillermo LEYVA (1))
Rebecca Portillo MANCHACA (2))

Case No.

Clerk, U. S. District Court
Western District of TexasBy XF
A-11-M-222 Deputy

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 03/23/2011 in the county of Travis in the Western District of
Texas, the defendant violated Title 8 U. S. C. § 1324 (a)(1)(A)(ii)

, an offense described as follows:

knowing or in reckless disregard of the fact that certain aliens, Hector Hugo HERNANDEZ-HERNANDEZ, Jose Luis HERNANDEZ-ROBLES & Antonio HERNANDEZ-HERRERA, have come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law.

This criminal complaint is based on these facts:

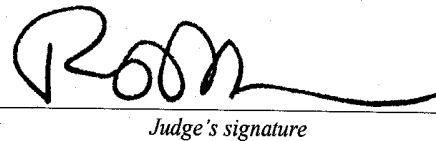
See Attachment "A"

☒ Continued on the attached sheet.
Complainant's signature

Ron Estrabo, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 03/24/2011
Judge's signatureCity and state: Austin, TX**ROBERT PITMAN**
U.S. MAGISTRATE JUDGE

ATTACHMENT A

AFFIDAVIT

Your affiant, Ron C. Estrabo, being duly sworn, deposes and state as follows:

1. I am a Special Agent with the United States Immigration and Customs Enforcement (ICE), currently assigned to the Homeland Security Investigations (HSI) office in Austin, Texas. I have been employed as a Special Agent with ICE/HSI for over seven years. As a Special Agent, I conduct investigations of alleged federal law violations. I have conducted and participated in investigations involving narcotic smuggling, alien smuggling, human trafficking, document and visa fraud, firearms smuggling, intellectual property rights violations, cybercrimes, money laundering, bulk cash smuggling, child pornography and export fraud. Prior to my current assignment with the ICE/HSI office in Austin, TX, I was assigned as a Special Agent with the Narcotics Smuggling unit of the ICE/HSI office in Brownsville, TX from October 2003 to April 2008. I was also assigned as an Immigration Enforcement Agent & as an Immigration Inspector with the legacy Immigration and Naturalization Service at the Houston, TX and Huntsville, TX offices from April 1997 to October 2003. Altogether, I have over thirteen years of law enforcement experience. My present responsibilities as a Special Agent with ICE/HSI include the investigation of violations under Title 8, 18, 19, 21, and 31 of the United States Code and related offenses.
2. This affidavit does not contain every material fact that I have learned during the course of this investigation, however, no information known to me that would tend to negate probable cause has been withheld from this affidavit.
3. That this affidavit sets forth facts that establish probable cause to arrest Carlos Guillermo LEYVA and Rebecca Portillo MENCHACA for violations of Title 8, United States Code, Section 1324 (a)(1)(A)(ii).

4. Based upon the facts set forth in this affidavit obtained through my own personal knowledge, knowledge obtained during my participation in this investigation, knowledge obtained from other individuals including other law enforcement personnel, review of documents related to this investigation, communications with others who have personal knowledge of the events and circumstances described herein, I know:

- a. On March 23, 2011, at approximately 2000 hours, Austin Police Department (APD) Officer Roque Martinez, badge #5655, conducted a traffic stop of a 2001 Chevrolet Suburban bearing Texas license plate CG7D059. The Suburban was traveling north bound on IH-35 near the Ben White Boulevard crossing. Based on the radar equipment that Officer Martinez used to gauge the speed of the Suburban, the vehicle was traveling at 70 miles per hour in a 65 mile per hour zone. After Officer Martinez executed the traffic stop of the vehicle, the suburban pulled into a parking lot near the Riverside Drive and IH-35 frontage road intersection. Subsequent to the stop, Officer approached the suburban and observed several passengers in the vehicle. Officer Martinez also observed a subject, later identified as Antonio HERNANDEZ-HERRERA, lying down inside the rear cargo area of the vehicle. Officer Martinez ordered the female driver, Rebecca Portillo MENCHACA out of the vehicle. When asked where she lived, MENCHACA admitted she lived in Dallas, TX. MENCHACA also told Officer Martinez that she went to San Antonio, TX on March 22, 2011 with her boyfriend, Carlos Guillermo LEYVA, to visit LEYVA's brother. MENCHACA told Officer Martinez that they stayed in San Antonio for one night. When asked what color is LEYVA's brother's house, MENCHACA responded white. MENCHACA also told the officers that she did not know who the passengers were

and that all she knew was that they worked for a concrete company. After talking to MENCHACA, Officer Martinez spoke to LEYVA to corroborate MENCHACA's statements. When asked when they left for San Antonio, LEYVA related that they left for San Antonio that morning. LEYVA added that arrived in San Antonio around 1:00 PM. When asked what color is his brother's house in San Antonio, LEYVA responded yellow. When asked if he knew any of the passengers in their vehicle, LEYVA initially stated that he knew the subject wearing a dark cap. It is noted that LEYVA was referring to Hector Hugo HERNANDEZ-HERNANDEZ. LEYVA later changed his story and stated to Officer Martinez that he did not know any of the passengers in the vehicle.

- b. Officer Martinez proceeded to question the passenger who was lying down in the rear cargo area of the vehicle, HERNANDEZ-HERRERA. Officer Martinez observed that HERNANDEZ-HERRERA was extremely nervous. HERNANDEZ-HERRERA initially stated that he lived in Florida. HERNANDEZ later changed his story and told Officer Martinez that he had illegally crossed into the U.S. approximately 1 to 2 weeks ago. HERNANDEZ-HERRERA admitted that he paid \$1,200.00 for his smuggling fee. HERNANDEZ-HERRERA also told Officer Martinez that when he pulled the suburban over, he heard someone instruct them to say that they worked for a concrete company if they were questioned about where they work.
- c. Officer Martinez also question one of the alien passengers that was the oldest of the group. It is noted that Officer Martinez was referring to Jose Luis HERNANDEZ-ROBLES. HERNANDEZ-ROBLES admitted that he illegally crossed into the U.S. about 4 days ago. HERNANDEZ-ROBLES added that they were at an

apartment in the San Antonio area when they were picked up in the suburban. HERNANDEZ-ROBLES also admitted that he paid \$1,800.00 for his smuggling fee.

- d. Officer Martinez noted that when LEYVA provided a consent to search, he found approximately \$1,400.00 in LEYVA's personal possession. It is noted that LEYVA was in possession of exactly \$1,463.00 in cash.
- e. At approximately 2150 hours, Officer Martinez contacted the Homeland Security Investigation (HSI) Office in Austin, TX to advise Special Agent Ron Estrabo of the circumstances surrounding the traffic stop. At approximately 2248 hours, Officer Martinez handed custody of LEYVA, MENCHACA, HERNANDEZ-ROBLES, HERNANDEZ-HERNANDEZ, HERNANDEZ-HERRERA and two additional alien passengers in the vehicle, Angel GUTIERREZ-URIBE and Armando SANTILLAN-VENEGAS, to the HSI agents in Austin, TX.
- f. HSI Agents conducted further interviews of the aliens upon arrival at the HSI office in Austin, TX. The aliens admitted to be citizens of Mexico. The aliens also claim to have crossed Laredo, TX area illegally in the evening of March 19, 2011. They claim that they traveled for 3 to 4 days. Upon reaching a small town outside of San Antonio, TX, they approach a residence and encountered a subject who offered to arrange their transportation so that they could reach their destinations. The aliens claim that the unknown subject charged them a fee between \$1,500.00 and \$1,800.00. Once they have arranged the payment, the aliens stated that MENCHACA picked them up in the suburban. The aliens added that MENCHACA stopped at a Walmart store briefly to pick up LEYVA. LEYVA got in the front passenger seat of the vehicle.

Soon after Officer Martinez conducted the traffic stop, the aliens were instructed by LEYVA to tell the Officer that they worked for a concrete company if they are asked about their work status.

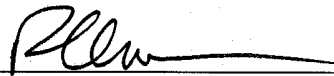
- g. At approximately 0320 hours, HSI Agents also conducted an interview with MENCHACA. MENCHACA was advised of her Miranda Rights. MENCHACA waived her rights and agreed to provide statements regarding her involvement with the smuggling operation. Initially, MENCHACA was not completely truthful in her statements, but eventually provided details of her involvement in the smuggling activity. MENCHACA stated that while they were in Dallas, LEYVA contacted her at approximately 0832 hours on March 23, 2011 to go on a trip to San Antonio, TX. LEYVA told MENCHACA that he wanted to go to San Antonio to see his brother. MENCHACA knew the brother as "JUNIOR." MENCHACA claims that they stopped at LEYVA's other brother's, Ralph LEYVA, house briefly then proceeded south on IH-35. MENCHACA claims that somewhere past a sign that indicated the distance of Piedras Negras, they made an exit off the freeway and travelled on to an area that had a number of trailer homes. MENCHACA claims that LEYVA left her at LEYVA's mother's house. LEYVA went to his brother-in-law's (FNU LNU) house somewhere in the same trailer park subdivision. After some time, LEYVA returned to pick up LEYVA at his mother's house. MENCHACA claims that she followed LEYVA and his sister, Mireya LEYVA, who was driving a minivan, to a location that was near a house next to a number of "rooster coops". After she got to the location, FNU LNU loaded the aliens into MENCHACA's suburban. MENCHACA noticed that some of the aliens were being held inside one of the rooster coops. MENCHACA also claims that

while the aliens were being loaded into her vehicle, FNU LNU instructed them to "hurry up, get in the car, don't say or do anything." MENCHACA also noticed that FNU LNU activated the child proof locks on the rear passenger doors. Additionally, MENCHACA claims that FNU LNU placed metal plates to barricade to rear passenger doors. Prior to their departure from the stash house location, LEYVA instructed MENCHACA to make sure that she drove north and under the speed limit. LEYVA also told MENCHACA not worry because "he had done this before." MENCHACA related that LEYVA got back into MIREYA's van. They headed north bound while she followed them in her suburban. MENCHACA followed the van on to exit 186 area and they parked at a Valero gas station. LEYVA got in the suburban with her, then they preceded north bound again on IH-35. When MENCHACA questioned LEYVA on why he did not want to drive the vehicle after they picked up the aliens, LEYVA told MENCHACA that he had been previously arrested for alien smuggling and had served 18 months in prison for the offense. LEYVA also told MENCHACA that if gets arrested again, he will probably get another 5 years imprisonment. MENCHACA continued to follow MIREYA in her van for a few more miles. MENCHACA claims that MIREYA exited IH-35 a few exits before they were stopped by APD. MENCHACA claims that after she was pulled over for the traffic violation, she heard LEYVA tell the alien passengers that they work for a concrete company and that they were on their way to Dallas to work. LEYVA also told them that they should not tell anyone where they came from, don't say anything, don't say any names, and don't describe anything. LEYVA also told MENCHACA that she should not say anything and that she was just giving everyone a

ride.

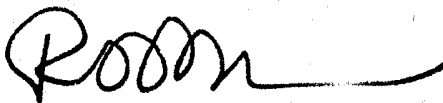
- h. At 0533 hours, HSI Agents advised LEYVA of his Miranda rights. LEYVA advised that he understood his rights and that he did not wish to provide any statements regarding his involvement in the smuggling operation.

- 5. Based on the aforementioned facts stated above, your affiant, Ron C. Estrabo, has probable cause to believe that on March 23, 2011, Carlos Guillermo LEYVA and Rebecca Portillo MENCHACA knowingly or in reckless disregard of the fact that certain aliens have come to, entered, or remains in the United States in violation of law, transported, or moved such aliens within the United States by means of transportation or otherwise, in furtherance of such violation of law, a violation of Title 8, United States Code, Section 1324 (a)(1)(A)(ii). .



Ron C. Estrabo, Special Agent
Homeland Security Investigations
U.S. Department of Homeland Security

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS, THE 24th DAY OF
MARCH 2011.



UNITED STATES MAGISTRATE JUDGE

ROBERT PITMAN
U.S. MAGISTRATE JUDGE